LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LWA 2 LCA 78

Bangalore, dated 17th January 1978.

Ordered that the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977) published in Part II Section 1 of the Gazette of India Extraordinary dated 7th December 1977 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the President of India,

A. NEELAKANTARYA,
Under Secretary to Government,
Deptt. of Law and Parly. Affairs.

Assented to on 7th December 1977 — Act No. 36 of 1977

THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977

An

Act

to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows :—

1. Short title, extent, application and commencement.—(1) This Act may be called the Water (Prevention and Control of Pollution) Cess Act, 1977.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions of sub-section (2), it applies to all the States to which the water (Prevention and Control of Pollution Act, 1974 (6 of 1974) applies and the Union territories.

(4) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions**:—In this Act, unless the context otherwise requires,—

(a) "local authority" means a municipal corporation or a municipal council (by whatever name called) or a cantonment board or any other body, entrusted with the duty of supplying water under the law by or under which it is constituted;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "specified industry" means any industry specified in Schedule I;

(d) words and expressions used but not defined in this Act and defined in the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) shall have the meanings respectively assigned to them in that Act.

3. **Levy and Collection of cess.**—(1) There shall be levied and collected a cess for the purposes of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974). and utilisation thereunder.

(2) The cess under sub-section (1) shall be payable by—

(a) every person carrying on any specified industry; and

(b) every local authority,

and shall be calculated on the basis of the water consumed by such person or local authority, as the case may be, for any of the purposes specified in column (1) of Schedule II, at such rate, not exceeding the rate specified in the corresponding entry in column (2) thereof, as the Central Government may, by notification in the Official Gazette, from time to time specify.

(3) Where any local authority supplies water to any person carrying on any specified industry or to any other local authority and such person or other local authority is liable to pay cess under sub-section (2) in respect of the water so supplied, then, notwithstanding anything contained in that sub-section, the local authority first mentioned shall not be liable to pay such cess in respect of such water.

Explanation:—For the purposes of this section and section 4, "consumption of water" includes supply of water.

4. **Affixing of meters.**—(1) For the purpose of measuring and recording the quantity of water consumed, every person carrying on any specified industry and every local authority shall affix meters of such standards and at such places as may be prescribed and it shall be presumed that the quantity indicated by the meter has been consumed by such person or local authority, as the case may be, until the contrary is proved.

Board, from time to time, from out of such proceeds, after deducting the expenses on collection such sums of money as it may think fit for being utilised under the Water (Prevention and Control of Pollution) Act, 1974: (6 of 1974):

Provided that while determining the sume of money to be paid to any State Board under this section, the Central Government shall have regard to the amount of cess collected by the State Government concerned under sub-section (4) of section 6.

Explanation.—For the purposes of this section, "State Board" includes a Joint Board, if any, constituted under section 13 of the Water (Prevention and Control of Pollution) Act, 1974. (6 of 1974).

9. **Power of entry.**—Any officer or authority of the State Government specially empowered in this behalf by that Government may,—

(a) with such assistance, if any, as he or it may think fit, enter at any reasonable time any place which he or it considers it necessary to enter for carrying out the purposes of this Act including the testing of the correctness of the meters affixed uuder section 4;

(b) do within such place anything necessary for the proper discharge of his or its duties under this Act; and

(c) exercise such other powers as may prescribed.

10. **Interest payable for delay in payment of cess.**—If any local authority fails to pay any amouut of cess payable under section person Carrying on any specified industry or any 3 to the State Government within the date specified in the order of assessment made under section 6, such person or local authority, as the case may be, shall be liable to pay interest at twelve per cent. per annum on the amount to be paid from the date on which such payment is due till such amount is actually paid.

11. **Penalty for non-payment of cess within the specified time—** If any amount of cess payable by any person carrying on any specified industry or any local authority under section 3 is not paid to the State Goverooment within the date specified in the order of assessment made under section 6, it shall be deemed to be in arrears and the authority prescribed in the behalf may, after such inquiry as it deems fit, impose on such person or, as the case may be, local authority, a penalty not exceeding the amount of cess in arrears:

Provided that before imposing any such penalty, such person or, as the case may be, the local authority shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

12. Recovery of amount due under the Act.—Any amount due under this Act (including any interest or penalty payable under section 10 or section 11, as the case may be) from any person carrying on any specified industry or from any local authority may be recovered by the Central Government in the same manner as an arrear of land revenue.

13. Appeals.—(1) Any person or local authority aggrieved by an order of assessment made under section 6 or by an order imposing penalty made under section 11 may, within such time as may be prescribed, appeal to such authority in such form and in such manner as may be prescribed.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

14. Penalty.—(1) Whoever, being under an obligation to furnish a return under this Act, furnishes any return knowing, or having reason to believe, the same to be false shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, being liable to pay cess under this Act, wilfully or intentionally evades or attempts to evade the payment of such cess shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) No court shall take cognizance of an offence punishable under this section save on a complaint made by or under the authority of the Central Government.

15. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director. manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals ; and

(*b*) "director", in relation to a firm, means a partner in the firm.

16. **Power to amend Schedule I.**—(1) The Central Government may, by notification in the Official Gazette, add to Schedule I any industry having regard to the consumption of water in the carrying on of such industry and the consequent discharge thereof resulting in pollution of any stream and thereupon Schedule I shall. subject to the provisions of sub-section (2). be deemed to be amended accordingly.

(2) Every such notification shall be laid before each House of Parliament, if it is sitting as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its re-assembly and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days begining with the day on which the notification is so laid before the House of the People, and if Parliament makes any modification in the notification or directs that the notification should case to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of any thing previously done thereunder.

17. **Power to make rules.**—(1) The Central Government may make rules for carrying out the purposes of this Act.

(2) Without projudice to the generality of the foregoing power, such rules may provide for all or any of the following matters. namely :—

(*a*) the standards of the meters to be affixed and the places at which such meters are to be affixed under sub-section (1) of section 4 ;

(*b*) the returns to be furnished under section 5, the form in which and the intervals at which such returns are to be furnished,

the particulars which such returns shall contain and the officer or authority to whom or which such returns shall be furnished ;

(c) the manner in which and the time within which the cess collected shall be paid to the Central Government under sub-section (4) of section 6 ;

(d) the date from which any person or local authority liable to pay cess shall be entitled to the rebate under section 7 ;

(e) the powers which may be exercised by the officer or authority under section 9 ;

(f) the authority which may impose penalty under section 11 ;

(g) the authority to which an appeal may be filed eunder sub-section (1) of section 13 and the time within which and the form and manner in which such appeal may be filed ;

(h) the fees which shall accompany an appeal under sub-section (2) of section 13 ; and

(i) any other matter which has to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE I

[*See section 2(c)*]

1. Ferrous metallurgical industry.
2. Non-ferrous metallurgical industry.
3. Mining industry
4. Ore processing industry.
5. Petroleum industry.
6. Petro-chemical industry.
7. Chemical industry.
8. Ceramic industry.
9. Cement industry.
10. Textile industry.
11. Paper industry.
12. Fertilizer industry.
13. Coal (including coke) industry.
14. Power (thermal and diesel) generating industry.
15. Processing of animal or vegetable products industry.

SCHEDULE-II

(See section-3)

Purpose of which water is consumed (1)	Maximum rate (2)
1. Industrial cooling, spraying in mine pits or boiler feed	Three-fourths of a paisa, per kilo litre.
2. Domestic purpose ...	One paisa, per kilo litre.
3. Processing whereby water gets polluted and the pollutants are easily bio-degradable ...	Two paise, per kilo litre.
4. Processing whereby water gets polluted and the pollutants are not easily bio-degradable and are toxic ...	Two and a half paise, per kilo litre.

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